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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,893	09/05/2003	Dan P. Steinberger	48000.001	7672

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EXAMINER
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BATSON, VICTOR D

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/655,893	Applicant(s) STEINBERGER ET AL.	
	Examiner Victor Batson	Art Unit 3671	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.  
2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) 20 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-8, 12, 13 and 17-19 is/are rejected.  
7) ☒ Claim(s) 9-11 and 14-16 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/6/04</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

Applicant's election with traverse of claims 1-19 in the reply filed on 2/10/05 is acknowledged. The traversal is on the ground(s) that invention I (claims 1-19) is not a subcombination of invention II (claim 20). This is not found persuasive because invention II (claim 20) is drawn to a three-point **sprayer**, which is a combination of a **sprayer** and a **three-point apparatus**. Invention I (claims 1 & 19) is drawn to the subcombination of a three-point apparatus which as claimed could be considered simply a three-point hitch system. Furthermore, although invention II (claim 20) includes details not included in the subcombination (invention I), it does not require the particular limitation of the suspension system coupled between the base of the hitch system and the implement as set forth in invention I. Therefore, the subcombination of the three-point apparatus of invention I, includes particulars not included in the three-point apparatus set forth in invention II. If applicant had claimed a three-point sprayer in the preamble of claims 1 & 19, or if applicant had claimed a three-point apparatus instead of a three-point sprayer in claim 20, the examiner would agree with applicant's arguments that claim 20 was a more detailed embodiment of claim 1.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1,7,12 are rejected under 35 U.S.C. 102(b) as being anticipated by Brooks (5,564,887).

Brooks discloses a three-point apparatus comprising a hitch system including a base 11, a three-point interface 12 & 13, an implement G and a suspension system 34 coupled between the base and the implement (figures 1 & 3).

Claims 1,7,12,17,18 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson et al. (2,748,686).

Nelson et al. discloses a three-point apparatus comprising a hitch system including a base 51, a three-point interface, an implement 10 and a suspension system including spring 63 coupled between the base and the implement (figures 1-3). Concerning claim 18, Nelson et al. discloses the invention being used with planters (col 1).

Claims 1,7,12,17,18 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (2,742,842).

Johnson discloses a three-point apparatus comprising a hitch system including a base 36, a three-point interface, an implement 14 and a suspension system including springs 34 & 35 coupled between the base and the implement (figures 1-3). The examiner notes that the system of Johnson includes a first and second spring connected to first and second sides of the base.

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Claims 1,2,3,5,7,12,13 are rejected under 35 U.S.C. 102(b) as being anticipated by Thorstensson (5,375,767).

Thorstensson discloses a three-point apparatus comprising a hitch system including a base 40, a three-point interface, an implement considered the boom & sprayer and a suspension system 30 including air spring 124 coupled between the base and the implement (figures 1-3). Concerning claim 5, the air spring 124 is considered an air tank.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3,5,6,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. (2,748,686) in view of Verseef (6,751,894).

Nelson et al. discloses a three-point apparatus as described previously, but lacks using an air spring with the suspension system. Nelson et al. uses a coil spring 63 instead of an air spring.

Verseef teaches that an air spring is an equivalent biasing structure known in the art (column 15).

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Therefore, because these two biasing means were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute an air spring for a coil spring.

Concerning claims 5 & 6, the examiner takes official notice that it is known for an air spring to use an air pump and an air tank. The examiner notes that Johnson discloses using an air pump (the compressor) and an air tank (the reservoir) with the air spring 3 (fig. 2).

Claims 2,3,4,5,6,8,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (2,742,842) in view of Verseef (6,751,894).

Johnson discloses a three-point apparatus as described previously, but lacks using an air spring with the suspension system. Johnson uses coil springs instead of air springs.

Verseef teaches that an air spring is an equivalent biasing structure known in the art (column 15).

Therefore, because these two biasing means were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute air springs for a coil springs.

Concerning claims 5 & 6, the examiner takes official notice that it is known for an air spring to use an air pump and an air tank. The examiner notes that Johnson (6,792,704) discloses using an air pump (the compressor) and an air tank (the reservoir) with the air spring 3 (fig. 2).

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***Allowable Subject Matter***

Claims 9-11, 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 21, 2005

  
Victor Batson  
Primary Examiner  
Art Unit 3671